

U.S. Diplomatic Missions in Jerusalem:

Background to the Jerusalem Embassy Decision

Apr 8, 1999



Brief Analysis

In the run-up to Israel's May 17 election, the issue of Jerusalem is returning to the political center stage. Just last month, the European Union -- via a letter to the Israeli Foreign Ministry by the German ambassador to Israel, Theodor Wallau -- sparked a mini-furor by reaffirming an idea that for decades has been rejected, for different reasons, by both Arabs and Israelis: the creation of an internationalized corpus separatum for the city. More significant, given the relative weight of European and American roles in the peace process and the prospective Israeli-Palestinian "final status negotiations" scheduled to begin with the formation of the next Israeli government, is the expected decision by President Bill Clinton to invoke a waiver of the Jerusalem Embassy Act of 1995 and postpone implementation of the move of the U.S. embassy from Tel Aviv to Jerusalem.

For years, the questions of U.S. diplomatic representation in Israel and the recognition of Israel's claim to Jerusalem have been a constant, though rarely acute, thorn in the side of the U.S.-Israeli relationship. The issue of Jerusalem itself is an amalgam of several interrelated problems: de jure recognition of Israeli sovereignty over any part of Jerusalem (the United States does not, technically, recognize any part of the city as sovereign Israeli territory, east or west); recognition, of any sort, of Israeli sovereignty over that portion of the city captured in 1967 and subsequently declared Israel's "united and eternal capital"; recognition of the expansion of Jerusalem's municipal boundaries in all directions over the past thirty years; and the establishment of a U.S. embassy to Israel somewhere inside the city. Whereas dispassionate policymaking may, at one time, have been able to separate these issues and address them individually, this is probably no longer the case, especially since successive administrations, both Republican and Democratic, have declared that any move by Washington on any of these issues could destroy the peace process, thereby creating a "self-fulfilling prophecy" scenario about Arab, Islamic, and international reactions to even the most limited American move.

U.S. Presence in Jerusalem: The United States recognized Israel immediately upon its independence in 1948 and opened a consular section in Tel Aviv, then the seat of the Israeli government. This mission was upgraded to the status of an embassy on February 25, 1949, and Tel Aviv has been the location of the U.S. embassy since. The United States joined in the international protest against moving Israel's capital to Jerusalem in 1950 because Washington supported United Nations (UN) resolutions that called for an international status for the city; nevertheless, it was not long before U.S. and Israeli officials began to conduct regular business in the Israeli-controlled half of pre-1967 Jerusalem.

In fact, the history of U.S. diplomatic presence in Jerusalem dates back to 1857, when a consulate was first established to serve American visitors to the then-Ottoman-administered city. The consulate was subordinate to the consulate-general in Constantinople. Owing to poor communications, the post became independent and began reporting directly to the U.S. Department of State rather than via U.S. representatives in the Ottoman capital. The independence of the Jerusalem consulate has been maintained up to the present day. Today, only Jerusalem and Hong Kong have U.S. consulate-generals that report directly to the Department of State rather than through their

respective countries' U.S. embassies.

The United States extended de jure recognition to both Israel and Jordan in 1949, and the United States upgraded its Amman legation to embassy status in 1952, matching the embassy in Tel Aviv. As a result, the Jerusalem consulate-general's district was limited to the two parts of the city, with some responsibilities for the West Bank of Jordan. The major work was limited to reporting on the situation in its district, giving most consular services -- excluding visas -- to those in its jurisdiction, and helping American tourists cross the truce line. Persons needing visas on the Jordanian and Israeli sides had to go to the respective U.S. missions in Amman and Tel Aviv. To perform its normal function in a divided consular district, the consulate improvised by adding to its property on the western side of the city and by leasing a second office building on the eastern side to deal with consular problems in Jordanian Jerusalem. There was no telephone link between the two offices, so consular officers carried messages back and forth.

Israel's capture of Jordanian-held Jerusalem in the June 1967 war made consular operations easier but jurisdictional matters more difficult. Separate facilities in the eastern and western sectors of the city still exist. For the last three decades, the Tel Aviv embassy has been responsible for reporting on developments in the Gaza Strip while the consulate has been responsible for reporting about developments in the West Bank and Jerusalem (eastern and western). This division of duties has become more problematic since the Palestinian Authority (PA) took over responsibility for Gaza and part of the West Bank. Whereas the consulate has the lead in contacts with the PA, the embassy is responsible for Gaza, where Yasir Arafat spends most of his time.

In 1968 the United States Information Agency (USIA) opened an American Cultural Center in western Jerusalem, with its director reporting to the U.S. Embassy in Tel Aviv. The USIA branch on the eastern side of the city, with responsibility for eastern Jerusalem and the West Bank, is linked to the consulate-general and therefore reports directly to the State Department.

Other Countries' Embassies in Jerusalem: Prior to 1980, Bolivia, Chile, Columbia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, The Netherlands, Panama, Venezuela, and Uruguay maintained embassies in Jerusalem. On June 30, 1980, Israel's Knesset enacted a "basic law," or constitution, proclaiming Jerusalem its "united and eternal" capital. In August 1980 the UN Security Council responded by adopting UNSC Resolution 478 by a vote of 14-0, with the United States abstaining, censuring in "the strongest terms the enactment by Israel of the 'basic law' on Jerusalem" and calling upon those "States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City." The resolution prompted a withdrawal of the 13 embassies from Jerusalem.

In 1982 Costa Rica moved its embassy back to Jerusalem, followed by El Salvador in 1984. Arab countries responded by severing diplomatic, economic, and cultural ties with the two countries -- a situation unchanged to this day, except that Morocco resumed diplomatic relations with El Salvador in 1997. Israel was influential in helping Costa Rica negotiate its international debt, and it provided assistance to El Salvador in fighting an insurgency when U.S. military assistance was cut off. Therefore the return of the two embassies to Jerusalem was seen largely as an expression of gratitude for Israeli assistance. Only these two countries currently maintain embassies in Jerusalem.

A U.S. Embassy in Jerusalem? On October 24, 1995, the U.S. Senate approved the Jerusalem Embassy Act of 1995 by a 93-5 vote and the House of Representatives by a 374-37 vote. President Clinton took no action, thereby allowing it to enter into force on November 8, 1995 without his signature. Working on the assumption that "final status negotiations" would be completed by their Oslo target date of May 4, 1999, the legislation required the administration to establish the U.S. embassy in Jerusalem by May 31, 1999. It also stipulated that the State Department's building budget would be cut by 50 percent if the embassy were not opened by then. According to the law, the president is permitted to invoke a "national security waiver" to avoid the relocation if he determines it to be

in the United States' national security interests. President Clinton is expected to issue the waiver within the next few days.

Interestingly, the legislation notes that Israel is the only country in whose functioning capital the United States does not maintain its embassy. Yet, there are several other cases in which the United States maintains an embassy in a city other than the capital. The U.S. embassies in Belize, Benin, Cte d'Ivoire, Micronesia, the Netherlands, and Nigeria are not located in their respective capitals. In some cases the situation appears to be temporary. In other cases, the embassy is located in the seat of government rather than the capital; for instance, the U.S. embassy in the Netherlands is located in The Hague, its seat of government, rather than Amsterdam, its capital. The U.S. embassy in Germany operates from both Bonn and Berlin, but the diplomatic mission plans to finalize its move to Berlin in August 1999. The Israel case is unique in being the only example of a situation in which the host country would like the embassy to be located in its capital, but the United States has declared that such a move would be detrimental to its "national security interests."

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